

PART IV

Section I-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES
THEREON

NOTIFICATION

(LAW DEPARTMENT).

No. LAW 27 LCA 65, dated Bangalore, the 16th March 1965.

Ordered that the Industrial Disputes (Second Amendment) Bill, 1964 (XXXII of 1964), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 24th December 1964, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L.D.

II

BILL No. XXXII OF 1964.

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Industrial Disputes (Second Amendment) Act, 1964.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of Section 2.*—In Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), (hereinafter referred to as the principal Act),—

(i) in sub-clause (i) of clause (a), after the words and figures “Employees’ State Insurance Act, 1948 (34 of 1948), or”, the words and figures “the “Indian Airlines” and “Air-India” Corporations established under Section 3 of the Air Corporations Act, 1953 (27 of 1958), or” shall be inserted;

(ii) in clause (p), before the words “the appropriate Government”, the words “an officer authorised in this behalf by” shall be inserted.

3. *Insertion of new Section 2A.*—After Section 2 of the principal Act, the following Section shall be inserted, namely:—

2A. *Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.*—Where any

employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

4. *Amendment of Section 12.*—In section 12 of the principal Act, in sub-section (3) after the words "the appropriate Government", the words "or an officer authorised in this behalf by the appropriate Government" shall be inserted.

5. *Substitution of new section for section 25C.*—For section 25C of the principal Act, the following Section shall be substituted, namely:—

6. *Right of workmen laid off for compensation.*—"25C. Whenever a workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent, of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid off:

Provided that if during any period of twelve months, a workman is so laid off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer:

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty-five days of the lay off and when he does so, any compensation paid to the workman for having been laid off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation.—“*Badli workman*” means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.”

6. *Amendment of Section 29.*—In section 29 of the principal Act, after the words “which may extend to six months, or with fine, or with both”, the words “and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

In order to simplify the existing procedure for handling disputes in respect of the Air Corporations, it is considered necessary to bring the Indian Airlines and Air India Corporations within the jurisdiction of the central sphere as in the case of some other Corporations of all India importance such as the Agricultural Refinance Corporation, the Deposit Insurance Corporation, etc.

2. In construing the scope of industrial dispute, Courts have taken the view that a dispute between an employer and an individual workman cannot *per se* be an industrial dispute, but it may become one if it is taken up by a union or a number of workmen making a common cause with the aggrieved individual workman. In view of this, cases of individual dismissals and discharges cannot be taken up for conciliation or arbitration or referred to adjudication under the Industrial Disputes Act, unless they are sponsored by a union or a number of workmen. It is now proposed to make the machinery under the Act available in such cases.

3. Section 25C of the Act provides that a workman (who has completed not less than one year of continuous service) on being laid off, is entitled to receive compensation up to a maximum period of forty-five days during the course of any twelve months. Where, however, the period of lay off after the expiry of the first forty-five days comprises continuous periods of one week or more, the workman is to be paid compensation for all the days comprised in every such subsequent period of lay off, unless there is an agreement to the contrary between the workman and the employer. This provision is open to abuse in as much as workmen could be denied lay off compensation by being made to work for some days in each

week after the first forty-five days of lay off. With a view to prevent such an abuse, it is now considered necessary to make a provision that lay off compensation would become payable for all the days of lay off beyond the first forty-five days whether the period is continuous for a week or not.

4. Section 29 of the Act provides for the imposition of a penalty for breach of a settlement or an award, which may be imprisonment for a term which may extend to six months, or fine, or both. There is no provision for enhanced penalty in the event of continued breach of settlements or awards with the result that some unscrupulous employers are able to successfully thwart the implementation of settlements or awards by paying a fine once, which may be far less than what the obligation would otherwise entail. Consequently, the workmen are unable to get the benefits flowing from the award though the employer might have been convicted for the breach. Thus, the absence of provisions for deterrent penalties for continued breach of settlements and awards is acting as an impediment in the way of implementation of settlements and awards, and it is, therefore, now proposed to make a suitable provision for the imposition of punishment in case of a continuing breach of a settlement or an award after conviction for the first breach.

5. Many of the above proposals have also received the approval of the Standing Labour Committee at its 21st Session.

6. The present Bill seeks to amend the Industrial Disputes Act to give effect to the above proposals and opportunity has also been availed of to make two other amendments of procedural nature.

NEW DELHI,
The 16th December, 1964.

D. SANJIVAYYA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide that individual disputes regarding dismissals, discharges, etc., should be deemed to be industrial disputes for the purposes of the Industrial Disputes Act, 1947. This is likely to increase the number of industrial disputes and cases for adjudication to a very small extent. It is proposed to manage, as far as possible, the probable increase in work-load with the existing staff of the Industrial Relations Machinery and the Labour Courts and Tribunals. Hence, the provision is not likely to involve any appreciable additional expenditure immediately or in the near future.